



*Judiciary Committee*

*Raised Bill No. 5509 An Act Concerning the Payment of Alimony and Child Support*

*Submitted by Amy Miller, Associate Director, Connecticut Women's Education & Legal Fund*

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My name is Amy Miller and I am the Associate Director of the Connecticut Women's Education and Legal Fund (CWEALF). CWEALF is a statewide nonprofit organization dedicated to improving the lives of women, girls and their families. For almost 40 years we have provided a free information and referral service on family, employment, education and civil rights law. However, the vast majority of our calls are related to family law, specifically division of property issues and child support. Over the past 5 years we have heard from more than 5,000 women. And while we know women have made extraordinary gains throughout our history, women still experience a disadvantage in court situations. If this bill were to become law, the financial well-being and security of married women [and men] could be threatened. Bill 5509 will affect women and children in ways that go beyond economic concerns. Therefore, we have many concerns about Raised Bill 5509, *An Act Concerning the Payment of Alimony and Child Support* as written.

Connecticut already has in place a system where judges have discretion and are able to make decisions on a case-by-case basis. Reducing judge's discretion is not good public policy, and may prevent them from making the most equitable award based on the payer's ability to pay and recipient's needs. Already awards of alimony often closely relate to length of marriage, and the law allows the judge to reduce or eliminate alimony if the circumstances of the payor or recipient change substantially. Further, because gender roles have changed, alimony is no longer the sole province of the male "breadwinner." While historically only men paid alimony, as times have changed it has become more gender neutral. Now the judge can make decisions based on the couple's financial circumstances and can order either party to pay alimony.

Two of the main provisions in the bill would require judges to award alimony only a time period of one-half the length of the marriage and only in an amount not exceeding 30 to 35% of the difference between the gross income of the parties. Making these two factors largely determinative has the potential to ignore other relevant considerations, including the fact that the person primarily responsible for the home and raising of children often loses opportunities to build up earning potential during the marriage. Further, the spouse who will receive the alimony often contributes significantly to the payer's earning potential or bears most of the responsibility raising the spouses' children. Even if a couple's children receive child support, limiting an alimony award to the spouse primarily responsible for the children may negatively impact the children's opportunities and standard of living.

While the bill provides exceptions to the requirement that judges consider only marriage time limits and income limits, it will be easier for judges to order alimony based on mathematical calculations instead of the full valuation of a spouse's worth and lost income opportunities of the

recipient spouse. One of the important exceptions is in a situation where a party's inability to provide for his or her own support was or is caused by the payer's physical or mental abuse. The bill is short-sighted, however, by not saying how the abused spouse will need to prove that physical or mental abuse occurred and whether such abuser caused the abused spouse to be unable to support himself or herself. Consider FAULT of one party, like judges do now.

While we don't disagree with modifying cohabitation rules, we are concerned with some of the specifics in this bill. For example, this bill would permit judges to modify alimony if the alimony recipient is "maintaining a common household" with someone else and would create a rebuttable presumption that if the spouse and the other party is maintaining a common household, the alimony recipient is economically interdependent with, or economically dependent on, the other person, making alimony modification more likely. Connecticut law already permits judges to modify the payment of alimony upon an alimony recipient's cohabitation. However, automatically reducing or eliminating alimony because someone is cohabitating assumes incorrectly that a live-in relationship always provides sufficient financial support. And if the cohabitation is short-term, the bill would prevent the reinstatement of payments once the relationship ends.

Under the bill, an order of alimony would be automatically terminated when the payer reaches the retirement age specified in the bill, regardless of the payer's ability to work beyond this age. A judge may extend an alimony award if the recipient shows clear and convincing evidence of "good cause" that rebuts the created presumption of durational limit requirements and shows substantially changed circumstances. This provision sets out an arbitrary limit on the provision of alimony and ignores the basic reason for alimony – that the recipient still needs alimony and the payer's resources are sufficient. The automatic termination of alimony upon the payer's retirement age would penalize individuals who are married to someone older, and could trigger a prospective alimony recipient to think of earlier divorce, possibly undermining the couple's efforts to work on marriage.

Raised Bill 5509 would permit judges to modify awards of alimony ordered prior to the effective date of the bill, October 1, 2012, without the current law's requirement of showing substantial change to either party, if the order exceeds the bills' durational limit or the payer reaches the specified retirement age. The termination or reduction of earlier alimony awards could be a catastrophe for those who negotiated their divorce agreements in good faith and possibly gave up property or other rights for the right to receive a specified term of alimony.

The strict time and income limits in this bill would significantly disadvantage stay-at-home spouses who have been out of workforce for many years in order to raise their children or who make much less money than their spouses, and would disregard lost value of a lost career.

While this bill attempts to make changes considering the new roles and opportunities women now have available, however, individuals still make compromises and adjustments during their relationships that aren't necessarily captured by simple economic gains. Therefore, while we respect the sentiment, we are concerned with the overall bill. We hope that you will reject the bill and instead work on one that is more equitable.